

SENATE BILL 30

K1

(PRE-FILED)

2lr0634
CF HB 65

By: **Senators Klausmeier and Kittleman**

Requested: October 3, 2011

Introduced and read first time: January 11, 2012

Assigned to: Finance

Committee Report: Favorable

Senate action: Adopted

Read second time: February 2, 2012

CHAPTER _____

1 AN ACT concerning

2 **Injured Workers' Insurance Fund – Cancellation of Policies – Failure to Pay a**
3 **Premium**

4 FOR the purpose of altering the manner in which the Injured Workers' Insurance
5 Fund may cancel policies when a policyholder has failed to pay a premium;
6 repealing a requirement that the Board for the Injured Workers' Insurance
7 Fund refer cases for collection to the Office of the Attorney General; and
8 generally relating to the cancellation and collection procedures of the Injured
9 Workers' Insurance Fund.

10 BY repealing and reenacting, without amendments,
11 Article – Insurance
12 Section 19–406
13 Annotated Code of Maryland
14 (2011 Replacement Volume)

15 BY repealing and reenacting, with amendments,
16 Article – Labor and Employment
17 Section 10–118, 10–133, and 10–135
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2011 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Insurance**

2 19–406.

3 (a) Except for a cancellation for nonpayment of premium, an insurer may not
4 cancel or refuse to renew a workers' compensation insurance policy before its
5 expiration unless, at least 30 days before the date of cancellation or nonrenewal, the
6 insurer:

7 (1) serves on the employer, by personal service or certified mail
8 addressed to the last known address of the employer, a notice of intention to cancel or
9 nonrenew the policy; and

10 (2) files a copy of the notice with the State Workers' Compensation
11 Commission's designee.

12 (b) Notice under this section may be given:

13 (1) if the employer is a corporation, to an agent or officer of the
14 corporation on whom legal process may be served; and

15 (2) if the employer is a partnership, to a partner.

16 (c) Notice under this section shall state when the cancellation or nonrenewal
17 takes effect.

18 (d) Whenever an employer receives a notice under this section, the employer
19 immediately shall secure coverage in accordance with § 9–402 of the Labor and
20 Employment Article that will be in effect when the cancellation takes effect.

21 (e) (1) The notice shall state the insurer's actual reason for proposing the
22 cancellation or nonrenewal of the policy.

23 (2) The Commissioner may not disallow a proposed action of an
24 insurer because the statement of actual reason contains:

25 (i) grammatical, typographical, or other errors, if the errors are
26 not material to the proposed action and are not misleading;

27 (ii) surplus information, if the surplus information is not
28 misleading; or

29 (iii) erroneous information, if in the absence of the erroneous
30 information there is a sufficient basis to support the proposed action.

1 (f) (1) At least 10 days before the date of cancellation of a workers'
2 compensation insurance policy for nonpayment of premium, the insurer shall send to
3 the employer, by certificate of mail, a written notice of the intention to cancel for
4 nonpayment of premium.

5 (2) An insurer shall file a copy of the notice sent under paragraph (1)
6 of this subsection with the State Workers' Compensation Commission's designee.

7 Article – Labor and Employment

8 10–118.

9 (a) The Fund shall consist of:

10 (1) premiums for insurance that the Fund issues;

11 (2) income from investments under § 10–122 of this subtitle;

12 (3) interests on deposits or investments of money from the Fund; and

13 (4) the money that [the Attorney General collects] **IS COLLECTED**
14 under [§ 10–133(c)] **§ 10–133(B)** of this subtitle on debts.

15 (b) The Fund shall include each security or other property that is acquired
16 with money of the Fund.

17 (c) The Board shall use the Fund to pay all of the expenses under this
18 subtitle, including losses on insurance that the Fund issues.

19 10–133.

20 (a) The Board shall adopt policies that provide procedures and standards for
21 the payment of premiums.

22 (b) (1) [Subject to paragraph (2) of this subsection, the Board, the
23 President of the Fund, or the Executive Vice President of] **IN ACCORDANCE WITH §**
24 **19–406 OF THE INSURANCE ARTICLE**, the Fund may:

25 (i) cancel the insurance of a policyholder who fails to pay a
26 premium due to the Fund; and

27 (ii) [refer to the Attorney General, for collection,] **PURSUE**
28 **COLLECTION OF** the debt of any policyholder whose insurance is being canceled
29 under this paragraph.

1 [(2) At least 10 days before the date set for cancellation of insurance
2 under this subsection, the Board shall:

3 (i) serve on the policyholder, by personal service or by certified
4 or registered mail sent to the last known resident address of the policyholder, a notice
5 of intention to cancel insurance; and

6 (ii) submit a copy of the notice to the Workers' Compensation
7 Commission's designee.

8 (3) Notice under this subsection may be given:

9 (i) for a policyholder that is a corporation, to an official or other
10 agent of the corporation on whom legal process may be served; and

11 (ii) for a policyholder that is a partnership, to any partner.

12 (4) Notice under this subsection shall state the date on which the
13 cancellation is to become effective.

14 (5) Whenever a debt is referred under this subsection for collection,
15 the insurance may not be reinstated until the debt is paid in full.

16 (c) (1) Whenever a debt is referred under this section for collection, the
17 Board, the President of the Fund, or the Executive Vice President of the Fund shall
18 provide the Attorney General with:

19 (i) the name of the policyholder;

20 (ii) each known business or resident address of the policyholder;
21 and

22 (iii) a statement of the amount that the policyholder owes to the
23 Fund.

24 (2) The Attorney General may sue, in the name of the Fund, to collect
25 the debt.

26 (d) **(2)** If [the President of] the Fund considers settlement to be in the
27 best interest of the Fund, a debt [that is referred under this section for collection] may
28 be settled.

29 10-135.

30 (a) The Board may:

31 (1) adopt requirements for uniform payroll; and

1 (2) require each policyholder to conform to the requirements.

2 (b) In accordance with the requirements that the Board adopts, each
3 policyholder shall submit a report on wages or other documentation to the Board at
4 intervals that the Board sets.

5 (c) The Board or its authorized employee **OR AGENT** may inspect at any time
6 the payroll of a policyholder.

7 (d) ~~[(1)]~~ [Subject to paragraph (2) of this subsection, the Board, the
8 President of the Fund, or the Executive Vice President of] **IN ACCORDANCE WITH §**
9 **19-406 OF THE INSURANCE ARTICLE**, the Fund may cancel the insurance of a
10 policyholder who:

11 ~~[(i)]~~ **(1)** fails to comply with subsection (b) of this section; or

12 ~~[(ii)]~~ **(2)** refuses to allow an inspection authorized under
13 subsection (c) of this section.

14 ~~[(2)~~ At least 30 days before the date set for cancellation of insurance
15 under this subsection, the Board shall:

16 (i) serve on the policyholder, by personal service or by certified
17 or registered mail sent to the last known resident address of the policyholder, a notice
18 of intention to cancel insurance; and

19 (ii) submit a copy of the notice to the Workers' Compensation
20 Commission's designee.

21 (3) Notice under this subsection may be given:

22 (i) for a policyholder that is a corporation, to an official or other
23 agent of the corporation on whom legal process may be served; and

24 (ii) for a policyholder that is a partnership, to any partner.

25 (4) Notice under this subsection shall state the date on which the
26 cancellation is to become effective.]

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 July 1, 2012.